UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1996/NGO/30
15 August 1996

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-eighth session
Agenda item 10

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[14 August 1996]

The question of human rights and states of emergency: the case of the United Kingdom of Great Britain and Northern Ireland and of Ireland following the recent deterioration in the situation there

1. The International Federation of Human Rights and its affiliates in Ireland, the Committee on the Administration of Justice (CAJ) in Northern Ireland and the Irish Council for Civil Liberties in the Republic of Ireland, are profoundly concerned about the lack of action on the part of the Government of the United Kingdom to remedy outstanding human rights problems. The failure to address these concerns has contributed to the breakdown of the peace process and to an overall deterioration in the situation in Northern Ireland.

2. We are also concerned that despite some positive moves in relation to the early release of paramilitary prisoners the Government of the Republic of Ireland has failed to put an end to its special courts and emergency measures.

3. In our submission last year to the Sub-Commission we urged the two Governments to dismantle emergency legislation. We also recommended measures to reassure all sections of the population that their grievances would be addressed and that their rights would be protected. Regrettably, very little, if indeed any, action has been taken in this regard.

4. We would stress that while there has been a tragic breakdown in the cease-fire declared by the IRA and a limited return to violence, this does nothing to diminish the obligations of the Governments of the United Kingdom and the Republic of Ireland to live up to their responsibilities under international human rights law. Indeed, the satisfactory resolution of the conflict is not possible without clear and effective protection of human rights.

Northern Ireland

5. In spite of calls from the United Nations Human Rights Committee and the United Nations Committee against Torture to dismantle emergency legislation in Northern Ireland, the United Kingdom Government has failed to act. Rather, it has renewed the legislation and extended its provisions.

6. The United Kingdom Government continues to derogate from the International Covenant on Civil and Political Rights and the European Convention on Human Rights in respect of its seven-day detention powers. Restrictions are placed on access to legal advice in Northern Ireland and the United Kingdom Government has thus far failed to respond to the judgement of the European Court of Human Rights in the Murray case which dealt with this question and the limits on the right to remain silent. Departures from the normal due process of law have contributed to a significant number of miscarriages of justice which have yet to be resolved.

7. In our statement of last year to the Sub-Commission we referred to the situation of prisoners and its relevance to the peace process. We are concerned that the conditions for Irish prisoners in Britain have in fact continued to deteriorate. We are also concerned at the death of a prisoner in highly suspicious circumstances in March 1996 in Northern Ireland and are of the view that this death should be the subject of an independent inquiry.

8. Reports about the intimidation of defence lawyers by police officers and the wider issue of collusion between some police officers and paramilitaries have not been satisfactorily addressed. For example, in a recent case the Northern Ireland High Court ruled that the inquest into the death of a man killed by paramilitaries could not hear evidence which suggested that there was police collusion in his killing.

9. The recent conflict between the rights of marchers and residents around the issue of controversial parades and the handling of this by the police and the authorities graphically illustrate that issues of justice and fairness are at the heart of the conflict here.

10. In the most prominent case the police initially decided to prevent a parade from passing through an area populated by people from another section of the community. After several days of protest, disruption and violence by

those wishing to march and the police permitted the parade to go through. Their handling of the problem both led to a dangerous collapse of law and order and suggested that the police favoured one section of the community. As such there has been a further deterioration in the level of confidence in the police force.

11. During these recent disturbances a man was killed when an army vehicle drove over him. It is our view that there should be a fully independent inquiry into this death.

12. We are further concerned that over a seven-day period official statistics report that some 6,000 plastic bullets were fired by the police and the army. This led to a significant number of injuries, many of them serious. Written evidence gathered by CAJ shows that on a number of occasions the police fired bullets at civilians uninvolved in public disturbances and that the bullets were often fired contrary to the rules governing their use. CAJ also received reports of police officers assaulting people in the casualty unit of a hospital.

13. We are convinced that there should be an immediate ban on the use of plastic bullets which have caused some 17 deaths in Northern Ireland including those of 8 children.

Republic of Ireland

14. The Republic of Ireland has also used extensive emergency laws and powers to deal with the spill-over of political violence from Northern Ireland. In particular, the Irish Government has since 1972 maintained a non-jury Special Criminal Court for the trial of paramilitary-linked offences, claiming that the ordinary courts are inadequate to administer justice in these cases. This has created a two-tier system of justice since jury trial is the norm for all serious non-paramilitary offences in the Republic.

15. In addition the Offences Against the State Acts 1939-1984 make the belief of a police officer evidence of membership of an illegal organization - a serious offence - as well as restricting certain other rights. The United Nations Human Rights Committee said in July 1993 that it "does not consider the continued existence of that court (the Special Criminal Court) is justified in the present circumstances". The Committee also expressed general concern about the extensive powers available to the police in the Republic.

16. Those comments were made one year before the paramilitary cease-fires in Northern Ireland. The Irish Government should have responded to the cease-fires by closing down the Special Criminal Court and returning to jury trial for all, and also be repealing the Offences Against the State Acts. The Government did release a number of paramilitary prisoners and ended a purely symbolic state of emergency as part of its response to the cease-fires. It also promised to review the need for the Special Court and for anti-terrorist legislation but so far there has been no evidence that that review has even begun.

17. Despite the ending of the IRA cease-fire, the level of paramilitary violence in the Republic has remained low with the very regrettable exception

of the murder in June last of a Garda (police officer) and the wounding of another in any armed robbery. The level of violence does not all, in our view, warrant any derogation from the ordinary law and we repeat our call for the immediate ending of the Special Criminal Court and the repeal of the Offences Against the State Acts. Such a policy by the Irish Government of relying on the ordinary rule of law to deal with the residue of political violence would be consistent with its international human rights obligations and would help to encourage the British Government to dismantle its emergency measures.

18. Following the murder of the Garda officer mentioned above, we have been concerned to note that there has been evidence of serious ill-treatment of some persons arrested for questioning about the murder.

19. This development strongly emphasizes the need for a thoroughly independent body to investigate complaints against the police and for implementing the recommendation of a Government-appointed committee in 1990 that all police interrogations should be electronically recorded.

20. We would also mention again the position of a number of prisoners sentenced to 40-year terms of imprisonment without the possibility of remission or parole for the murder of members of the security forces. These sentences should be subject to review and parole on the same basis as any others.

Conclusion

21. We would respectfully request the Sub-Commission to urge the British and Irish Governments to end all emergency legislation and to bring their laws and practices into conformity with international human rights standards. Issues of justice and fairness have been at the heart of the conflict in Northern Ireland. We have already indicated that we feel that the failure to do more to put in place a system of human rights protection in which everyone could have confidence contributed to the return of violence. It is all the more important to make up for that failure now. Any efforts to establish a lasting settlement to the conflict must ensure that everyone is treated fairly and that those who are meant to enforce the law do so fairly and enjoy the confidence and respect of the whole community.